



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2016-0650]

RIN 1625-AA00

Safety Zone; Houma Navigation Canal miles 23 to 23.5, Dulac, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters surface to bottom, of the Houma Navigation Canal from mile marker 23 to 23.5. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by replacement work of the Falgout Canal Pontoon Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Morgan City or a designated representative.

DATES: This rule is effective without actual notice from 7:00 a.m. until 7:00 p.m. daily from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] through July 27, 2016. For the purposes of enforcement, actual notice will be used from 7:00 a.m. until 7:00 p.m. daily from July 7, 2016 through [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0650 in the “SEARCH” box and click

"SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact MSTC Justin Helton, Marine Safety Unit Houma, U.S. Coast Guard; telephone 985-850-6457, email Justin.K.Helton@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
MM	Mile Marker

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the bridge repairs until June 21, 2016. Completing the NPRM process would delay the immediate action needed to protect the public from hazards associated with the Falgout Canal Pontoon Bridge replacement. It is impracticable to publish an NPRM because we must establish this safety zone by July 7, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good

cause exists for making it effective less than 30 days after publication in the **Federal Register**. Providing 30 days notice for this occurrence would unnecessarily delay the effective date and would be impracticable based on the limited time frame, as well as be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with the replacement of the Falgout Canal Pontoon Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Morgan City (COTP) has determined that potential hazards associated with the Falgout Canal Pontoon Bridge replacement between 7:00 a.m. and 7:00 p.m. from July 7 through July 27, 2016 will be a safety concern for anyone within the area extending from MM 23 to 23.5 of the Houma Navigation Canal. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the Falgout Canal Pontoon Bridge is being replaced.

IV. Discussion of the Rule

This rule establishes a safety zone from 7:00 a.m. until 7:00 p.m. from July 7 through July 27, 2016. The safety zone will cover all navigable waters, surface to bottom, of the Houma Navigation Canal from MM 23 to 23.5. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Falgout Canal Pontoon Bridge is being repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866.

Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and specific times of enforcement for the temporary safety zone. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Falgout Canal Pontoon Bridge is being replaced. This temporary safety zone will be enforced during specific times during daylight hours for bridge replacement operations only, and limits access to a small area on the waterway covering one-half mile. Vessels will be able to request passage through area from the COTP. Additionally, there will be a break in operation allowing any build up of traffic to pass on a once daily basis.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The

term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management

Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone, during daylight hours, lasting less than 13 hours per day for 21 days that will prohibit entry into or transit within MM 23 to 23.5 of the Houma Navigation Canal. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Recordkeeping Requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08-0650 to read as follows:

§ 165.T08-0650 Safety zone; Houma Navigation Canal between mile 23 to 23.5, Dulac, LA.

(a) Location. The following area is a temporary safety zone: all waters of the Houma Navigation Canal, surface to bottom, between mile 23 and mile 23.5, Dulac, LA.

(b) Enforcement period. This safety zone will be enforced from 7:00 a.m. until 7:00 p.m. daily from July 7 through July 27, 2016.

(c) Regulations. (1) In accordance with the general regulations in §165.23, entry into this zone is prohibited unless specifically authorized by the Captain of the Port Morgan City (COTP) or designated personnel. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF-FM radio channel 13 and 16 or phone at 504-343-7928.

(2) Persons and vessels permitted to deviate from this safety zone regulation and enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) Informational broadcasts. The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the temporary safety zone as well as any changes in the planned schedule.

Dated: July 1, 2016.

B. E. Welborn,
Captain, U.S. Coast Guard,
Captain of the Port Morgan City.
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